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Delaware Life Insurance Company

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

DELAWARE LIFE INSURANCE COMPANY,

Plaintiff,

V.

DEBBIE FLINT, an individual;
ANGELINA NEVEROV, as
Executrix for the Estate of Robert
Dorton; and DOES 1 to 10,
inclusive,

Defendants.

Case No.

COMPLAINT IN INTERPLEADER

Plaintiff Delaware Life Insurance Company (“Delaware Life”) alleges as follows:

JURISDICTION AND VENUE

1. Plaintiff Delaware Life is a corporation organized and existing under the laws of the State of Delaware and maintains its principal place of business in the Commonwealth of Massachusetts. Delaware Life is authorized to do business and is lawfully doing business in the State of California, and within this district.

1 2. Defendant Debbie Flint (“Flint”) is an individual, and on information
2 and belief, is a citizen and resident of the State of California, County of Placer.

3 3. Defendant Angelina Neverov (“Neverov”) is an individual, and the
4 Executrix for the Estate of Robert Dorton. On information and belief, she is a
5 citizen and resident of the State of California, County of Yolo.

6 4. The true names and capacities of DOES 1 through 10 are unknown to
7 Delaware Life. When the identities of these individuals become known, Delaware
8 Life will amend this Complaint to show such true names and capacities. Delaware
9 Life is informed and believes and based thereon alleges that each of the Doe
10 Defendants claims or may claim an interest in the death benefits of the Annuity
11 Contract which is the subject of this Complaint

12 5. Diversity of citizenship exists between Delaware Life, as stakeholder,
13 and Defendants, as claimants, for purposes of Rule 22, Federal Rules of Civil
14 Procedure, in that Delaware Life is incorporated in the State of Delaware, with its
15 principal place of business in Massachusetts, and Defendants are citizens and
16 residents of California. The amount in controversy for Rule 22 interpleader is
17 satisfied because more than \$75,000 is in controversy with respect to the Annuity
18 Contract, exclusive of interest and costs.

19 6. This Court has supplemental jurisdiction pursuant to 28 U.S.C. §
20 1337(a) over all related claims over which it does not have original jurisdiction.

21 7. Venue is proper in this District, as Defendants Flint and Neverov
22 reside within the Eastern District of California.

23

24 **FACTS RELEVANT TO THE STAKE INTERPLED**

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26 8. On June 30, 2000, Keyport Life Insurance Company (“Keyport”)
27 issued to Robert A. Dorton, as owner and annuitant, its Keyport Valued Customer
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1 Program Annuity Contract No. KA00929697-01 (hereinafter, the “Annuity
2 Contract”).

3 9. Effective December 31, 2003, Keyport merged with and into Sun Life
4 Assurance Company of Canada (U.S.) (“Sun Life”). On November 3, 2008, Sun
5 Life received and processed Dorton’s beneficiary designation form by which he
6 named Defendant Flint as the primary beneficiary of the Annuity Contract. He did
7 not name any contingent beneficiaries.

8 10. In July 2009, and again in July 2010, Mr. Dorton called Sun Life to
9 confirm his beneficiary designation.

10 11. Effective July 31, 2014, Sun Life changed its name to Delaware Life
11 Insurance Company.

12 12. On July 8, 2019, Mr. Dorton called Delaware Life’s Service Center to
13 confirm his beneficiary designation on the Annuity Contract, and to inquire how he
14 could update the beneficiary’s address.

15 13. On November 30, 2019, Robert A. Dorton died.

16 14. By reason of Mr. Dorton’s death, a Death Benefit became payable
17 under the Annuity Contract.

18 15. On January 6, 2020, Delaware Life became aware of Mr. Dorton’s
19 death, and on January 10, 2020, forwarded a claim packet to the named beneficiary,
20 Flint.

21 16. On January 14, 2020, Defendant Neverov called Delaware Life to
22 identify herself as the Executrix for Mr. Dorton’s Estate. Delaware Life informed
23 her that a claim to the Annuity Contract proceeds was pending.

24 17. On January 17, 2020, Neverov sent Delaware Life the Letters
25 Testamentary for the Estate of Robert A. Dorton.

26 18. On January 27, 2020, Neverov advised Delaware Life’s Claim
27 Department of concerns about the beneficiary designation, and on January 30,
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2020, she asked Delaware Life not to process any claim under the Annuity Contract without additional review.

19. Delaware Life is informed and believes that between January 30, 2020, and the present, Defendants Flint and Neverov attempted to resolve their dispute regarding the proceeds of the Annuity Contract, but that these attempts were unsuccessful. As a result, there are currently conflicting claims to the Annuity Contract proceeds by the named Defendants.

FIRST CAUSE OF ACTION FOR INTERPLEADER

20. Plaintiff refers to and incorporates herein by this reference each and every allegation set forth in Paragraphs 1 through 19 above, as though fully set forth herein.

21. Delaware Life has received adverse and conflicting claims to the Annuity Contract from Defendant Flint, on the one hand, and Defendant Neverov, on the other. As a result of these conflicting claims, Delaware Life is unable to discharge its liability under the Annuity Contract without potentially exposing itself to multiple liability or litigation or both.

22. The amount of unpaid proceeds now due and owing under the Annuity Contract on account of the death of Robert A. Dorton as of June 24, 2020, is \$223,481.49. Delaware Life will deposit the amount of \$223,481.49, plus interest, into the Court's registry.

23. Delaware Life claims no beneficial interest in the Annuity Contract or in the proceeds thereof. It is a mere stakeholder of these proceeds.

24. As a result of the conflicting claims for proceeds under the Annuity Contract, Delaware Life has and will incur attorneys' fees and costs in bringing this interpleader action to resolve the dispute over the Annuity Contract proceeds

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1 between Defendants Flint and Neverov. Delaware Life is entitled to recover its
2 attorneys' fees and costs incurred in the filing and prosecution of this action.

3 25. Delaware Life should not be compelled to become involved in the
4 actual or potential disputes or contentions of Defendants, and the Defendants
5 should be ordered to litigate or otherwise settle among themselves without further
6 involving Delaware Life.

7

8 WHEREFORE, Delaware Life prays judgment as follows:

- 9 1. That the Court finds it has jurisdiction over this matter and the parties;
- 10 2. That the Defendants be restrained from instituting any action against
11 Delaware Life for the recovery of the amount of said Annuity
12 Contract, or any part thereof;
- 13 3. That the Defendants be required to interplead and settle among
14 themselves their respective rights to the proceeds under the Annuity
15 Contract, and that Delaware Life be discharged from all liability to
16 Defendants under said Annuity Contract, or otherwise;
- 17 4. That this Court award Delaware Life its actual costs and reasonable
18 attorneys' fees incurred in connection with this interpleader action,
19 with such sums to be paid out of the amount deposited by Delaware
20 Life with this Court;
- 21 5. That this Court dismiss Delaware Life with prejudice from this action;
22 and

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6. For such other and further relief as the Court deems proper.

DATED: July 1, 2020

BURKE, WILLIAMS & SORENSEN, LLP

By: *s/ Daniel W. Maguire*
DANIEL W. MAGUIRE
KAREN T. TSUI
Attorneys for Plaintiff
Delaware Life Insurance Company